

VZCZCXYZ0000
PP RUEHWEB

DE RUEHBU #2630/01 3321946
ZNY CCCCC ZZH
P 281946Z NOV 06
FM AMEMBASSY BUENOS AIRES
TO RUEHC/SECSTATE WASHDC PRIORITY 6599
INFO RHMFISS/DEPT OF JUSTICE WASHINGTON DC PRIORITY
RHMFISS/FBI WASHINGTON DC PRIORITY

C O N F I D E N T I A L BUENOS AIRES 002630

SIPDIS

SIPDIS

E.O. 12958: DECL: 11/27/2016
TAGS: [PGOV](#) [PREL](#) [KJUS](#) [FBI](#) [AR](#)
SUBJECT: AMBASSADOR'S NOVEMBER 27 MEETING WITH ARGENTINE
SUPREME COURT

REF: A. BUENOS AIRES 2569
[1](#)B. BUENOS AIRES 2485
[1](#)C. BUENOS AIRES 2451
[1](#)D. BUENOS AIRES 452

Classified By: Ambassador E. Anthony Wayne for Reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: On November 27, Ambassador discussed judicial reform issues with members of the Argentine Supreme Court, including outgoing President Enrique Petracchi, incoming President Ricardo Lorenzetti, and Justices Juan Carlos Maqueda, Elena Highton, and Carmen Maria Argibay. The Justices noted the benefits of judicial exchanges with U.S. counterparts, and the Ambassador offered to continue the exchanges as well as assist in organizing seminars on the U.S. accusatory system, judicial efficiency, and case management. When asked about the status of the Supreme Court investigation into the 1992 terrorist attack on the Israeli Embassy, Petracchi admitted that the investigation has made little progress. On the 1994 attack on the Argentine-Israeli Mutual Association (AMIA), the Ambassador expressed appreciation for the efforts made by the judge, attorney general, and investigators in bringing to justice the perpetrators of the attack. The Ambassador reiterated U.S. support for Argentina's efforts on the case. He said the United States does not wish to politicize the matter, but wants to support efforts to bring terrorists to justice. End Summary.

U.S.-Argentina Enjoys Close Judicial Relationship

[1](#)2. (C) On November 27, Ambassador discussed judicial reform issues with members of the Argentine Supreme Court, including outgoing President Enrique Petracchi, incoming President Ricardo Lorenzetti, and Justices Juan Carlos Maqueda, Elena Highton, and Carmen Maria Argibay. The Ambassador noted the important role the U.S. and Argentine Supreme Courts play in upholding the principles of balance of power between, as well as the checks and balances of, the three branches of government. Petracchi observed that the Argentine constitution and Supreme Court are modeled after the United States. As a result, the Argentine Supreme Court has enjoyed a "doctrinally close relationship" with the U.S. Supreme Court over the years. Having benefited from meetings with Justice Scalia as well as former Justices O'Connor and Brennan, Petracchi welcomed continued dialogue with his U.S. counterparts. The Ambassador mentioned his own experience facilitating such dialogue between the U.S. Supreme Court and other Courts around the world and offered support to deepen the U.S.-Argentine judicial relationship.

[1](#)3. (C) Justice Highton praised the U.S. judicial exchange program, noting that the program helped to educate officials from the Ministry of Justice, Council of Magistrates, and the

judiciary, as well as NGOs. She noted that these programs have taken into account Argentina's needs, and that participants draw what they can from the U.S. experience and apply it to the Argentine system. The Ambassador stated that U.S. judges, lawyers, and attorney generals also benefit from the exchanges.

14. (C) Turning to a discussion on Argentina's judicial reform efforts, Petracchi argued that "the Congress' solution" (i.e., reform proposed by Senator and First Lady Cristina Kirchner) to reduce gradually the number of Supreme Court Justices from nine to five helps to restore the Court's credibility and judicial independence. He stated that public confidence in the judicial system declined significantly with former President Menem's decision to increase the Court from five to nine justices in the 1990s. This enabled Menem to have an automatic majority that would support his executive decrees. The Ambassador recalled that efforts to expand the Supreme Court in the United States met with similar public resistance and highlighted the importance of judicial independence. Petracchi agreed, adding that checks and balances as well as the rule of law are essential in maintaining the integrity of the judicial system.

15. (C) Petracchi also argued that the proposed judicial reforms will enable the Argentine Supreme Court to rule on some high-profile and difficult cases, as the number of justices needed to obtain a majority opinion will decrease from five to four until the court's size is reduced to five justices, when the number of justices needed to obtain a majority opinion will be reduced to three. As such, Petracchi believes the Supreme Court will be able to rule by early 2007 on the constitutionality of the GOA's decision to "pesify" Argentine deposits and annuities during the 2001-02 financial crisis.

Judicial (In)Efficiency

16. (C) The Ambassador asked about other institutional challenges, Justice Highton stated that the Supreme Court's "overwhelming caseload" is its biggest challenge. The Supreme Court has 15,000 cases a year, and it is impossible for the Court to rule on each one. With this very heavy caseload, there are significant delays in judicial hearings which creates the additional burden of overcrowded prisons. She argued that the Supreme Court should only hear the most important cases. Petracchi added that the Argentine Supreme Court, like its U.S. counterpart, has the discretion to determine which cases it will hear (i.e., writ of certiorari), but acknowledged that they rarely exercise this authority. The Ambassador suggested that judicial efficiency and case management issues could be topics for future seminars or digital video conferences. Petracchi and the other Justices agreed.

AMIA and the 1992 Israeli Embassy Bombing Investigation

17. (C) Turning to counterterrorism cooperation, the Ambassador asked about the progress of the Supreme Court's ongoing investigation into the 1992 bombing of the Israeli Embassy. Petracchi explained that, unlike the 1994 attack on the Argentine-Israeli Mutual Association (AMIA), the Supreme Court has jurisdiction over the investigation of this attack since it involved a diplomatic building. He noted that the investigation has made little progress, citing incomplete, and sometimes confusing intelligence. The Ambassador expressed appreciation for the efforts made by the judge, attorney general, and investigators of the AMIA attack. He stated that he understood the difficulties associated with re-investigating the attack and asking again for international cooperation in bringing terrorists to justice. The Ambassador reiterated U.S. support for Argentina's efforts on the case. He stressed that the U.S. government

does not wish to politicize the matter, but wants to work to see that the perpetrators of this terrorist attack are brought to justice. Petracchi thanked the Ambassador for his support. Both the Ambassador and Petracchi agreed to maintain a strong dialogue.

WAYNE